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Prepared By _____

Approved By _____

An act to amend Sections 19704, 19705, and 19709 of, to add Section 19710 to, to repeal Sections 19700, 19701, 19702, and 19706 of, and to amend the heading of Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of, the Welfare and Institutions Code, relating to the Department of Rehabilitation.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The heading of Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of the Welfare and Institutions Code is amended to read:

CHAPTER 7. ~~VOCATIONAL REHABILITATION APPEALS BOARD~~ APPEALS

SEC. 2. Section 19700 of the Welfare and Institutions Code is repealed.

~~19700. (a) There is in the department a Rehabilitation Appeals Board consisting of seven members, one of whom shall be designated chairperson. The chairperson and the members of the board shall be appointed by the Governor with the advice and consent of the Senate for terms of four years. The members of the board shall be selected for their interest and leadership in activities to encourage and enable the disabled and otherwise disadvantaged to participate fully in the economic and social life of the community.~~

~~(b) A majority of the members of the board shall be disabled persons who have overcome their disabilities, including those who have done so with the assistance of public agencies, and who are independently self-supporting in the regular businesses, professions, and occupations of the community.~~

~~(c) No member of the board shall have a personal or financial interest that would affect his or her objectivity in matters before the board.~~

SEC. 3. Section 19701 of the Welfare and Institutions Code is repealed.

~~19701. (a) The members of the board shall receive their actual and necessary traveling expenses incurred in the course of official duties.~~

~~(b) In addition to subdivision (a), each member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties.~~

~~Those payments shall be made from federal and state general fund moneys appropriated to the department.~~

SEC. 4. Section 19702 of the Welfare and Institutions Code is repealed.

~~19702. (a) The members of the board shall meet whenever required to hear appeals that have been filed with the board. Special meetings shall be approved by the director and called by the chairperson, who shall notify the other members of the time and place of those meetings.~~

~~(b) The director, in consultation with the board, shall determine and provide necessary staff support and assistance for the board in conducting fair hearings and issuing decisions.~~

~~(c) Three members of the board shall constitute a quorum for the performance of any duty or the exercise of any power of the board.~~

SEC. 5. Section 19704 of the Welfare and Institutions Code is amended to read:

19704. If any applicant for, or client of, the department is dissatisfied with any action of the department relating to his or her application or receipt of services, or if any person who desires to apply for that assistance is refused the opportunity to submit a signed application therefor and is dissatisfied with that refusal, he or she shall, upon filing a request with the department within one year after the decision or action complained of, have a right to an administrative review and redetermination by a member or members of the supervisory staff of the department and a formal fair hearing before the Rehabilitation Appeals Board an impartial hearing officer. An administrative

review shall not delay a hearing before ~~the board~~ an impartial hearing officer if that hearing is requested. The review shall be held and the decision of the reviewer shall be rendered to the applicant or client within 15 days of the date the request was filed. A fair hearing shall be held within ~~45~~ 60 days of the date a written request is received by the ~~board~~ department.

SEC. 6. Section 19705 of the Welfare and Institutions Code is amended to read:

19705. (a) The department shall set the hearing specified in Section 19704 before ~~the Rehabilitation Appeals Board~~ an impartial hearing officer and shall give all parties concerned written notice of the time and place of the hearing.

(b) At the hearing, the appellant may appear in person, may be accompanied by a representative of his or her own choosing, or may designate a representative to appear on his or her behalf. The appellant may submit the matter on the written record and waive the right to appear at the hearing.

(c) Upon a joint request of the parties or upon a showing of good cause by either party, ~~the board~~ impartial hearing officer may grant extensions of time or continuances of the hearing.

(d) The impartial hearing officer shall provide a written decision that includes findings and grounds for the decision to the parties within 30 days of the completion of the hearing.

SEC. 7. Section 19706 of the Welfare and Institutions Code is repealed.

~~19706. (a) In each appeal to the Rehabilitation Appeals Board, the written notification required by Section 19703, and, if applicable, the decision of the reviewer required pursuant to Section 19704, shall form part of the record.~~

~~(b) Three or more members of the board shall hear all relevant evidence and shall consider each case on the basis of the laws and regulations controlling the department and shall render a final decision that has been approved by a majority of the board members present at the hearing within 45 days.~~

~~(c) The board shall send its written decision by certified mail to the appellant, the appellant's authorized representative, and the department.~~

SEC. 8. Section 19709 of the Welfare and Institutions Code is amended to read:

19709. (a) The appellant, within six months after receiving notice of the board's impartial hearing officer's final decision, may file a petition with the superior court, under Section 1094.5 of the Code of Civil Procedure, praying for a review of the entire proceedings in the matter, upon questions of law involved in the case. The review, if granted, shall be the exclusive remedy available to the appellant for review of the board's impartial hearing officer's final decision. The department shall be the sole respondent in the proceedings.

(b) No filing fee shall be required for the filing of a petition pursuant to this section. Any of these petitions to the superior court shall be entitled to a preference in setting a date for hearing on the petition. No bond shall be required in the case of any petition for review, nor in any appeal therefrom. The appellant shall be entitled to reasonable attorney's fees and costs, if he or she obtains a decision in his or her favor.

SEC. 9. Section 19710 is added to the Welfare and Institutions Code, to read:

19710. During the 2011–12 and 2012–13 fiscal years, the adoption and readoption of regulations to modify appeals processes consistent with this part shall be deemed to be an emergency and necessary for the immediate preservation of public

peace, health and safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe facts showing the need for immediate action and from review by the Office of Administrative Law.

SEC. 10. The amendments made to Chapter 7 (commencing with Section 19700) of Part 2 of Division 10 of the Welfare and Institutions Code by this act shall become operative 30 days after the effective date of this act.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Department of Rehabilitation: appeals.

Existing law vests in the Department of Rehabilitation the responsibility and authority for the provision of vocational rehabilitation services to individuals with physical or mental disabilities. Existing law provides for the Rehabilitation Appeals Board within the department to hear appeals, as prescribed, that have been filed with the board by any applicant for, or client of, the department. Existing law provides that any applicant for, or client of, the department upon filing a request, as prescribed, has the right to a fair hearing before the board that is required to be held with 45 days of the date the written request is received by the board.

This bill would eliminate the Rehabilitation Appeals Board, provide that a fair hearing will be held within 60 days of a written request by an impartial hearing officer, and make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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